



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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The Honorable Mike Doyle
Member, U.S. House of Representatives
2637 East Carson Street
Pittsburgh, PA 15203

Attention:

Dear Representative Doyle:

I'm responding to your inquiry dated January 22, 2020, on behalf of your constituent, . asked for information about reimbursements from a dependent care flexible spending arrangement (FSA) under a Section 125 cafeteria plan. Specifically, he asked if an employee's expenses during the tax year can be reimbursed even though the expenses were incurred before the employee became eligible to participate in the plan.

Expenses incurred before an employee becomes a participant in the plan are not eligible expenses. See Proposed Treasury Regulation Section 1.125-6 for general information and Section 1.125-6(a)(4)(ii) for information regarding dependent care FSAs at www.treasury.gov/press-center/press-releases/Documents/section125.pdf. A Section 125 cafeteria plan may pay or reimburse only substantiated expenses for benefits incurred on or after the date the employee is enrolled in the plan.

I hope this information is helpful. If you have additional questions, please contact me or
at .

Sincerely,

Denise Trujillo
Branch Chief, Health & Welfare Branch
Office of Associate Chief Counsel
(Employee Benefits, Exempt Organizations,
and Employment Taxes)